



## Senate

General Assembly

**File No. 618**

February Session, 2014

Substitute Senate Bill No. 492

*Senate, April 17, 2014*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE REPORTING OF SUSPECTED CHILD ABUSE BY PERSONS WHO ARE DIRECTORS, OFFICERS OR EMPLOYEES OF NONPROFIT CORPORATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 17a-101 of the 2014 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2014*):

4 (c) The Commissioner of Children and Families shall develop an  
5 educational training program and refresher training program for the  
6 accurate and prompt identification and reporting of child abuse and  
7 neglect. Such training program and refresher training program shall be  
8 made available to all persons mandated to report child abuse and  
9 neglect at various times and locations throughout the state as  
10 determined by the Commissioner of Children and Families. Such  
11 training program may be made available to the persons described in  
12 subsection (b) of section 17a-101a, as amended by this act. Such  
13 training program shall be provided to all new school employees, as

14 defined in section 53a-65, within available appropriations.

15 Sec. 2. Section 17a-101a of the 2014 supplement to the general  
16 statutes is repealed and the following is substituted in lieu thereof  
17 (*Effective October 1, 2014*):

18 (a) Any mandated reporter, as defined in section 17a-101, as  
19 amended by this act, who in the ordinary course of such person's  
20 employment or profession has reasonable cause to suspect or believe  
21 that any child under the age of eighteen years (1) has been abused or  
22 neglected, as defined in section 46b-120, (2) has had nonaccidental  
23 physical injury, or injury which is at variance with the history given of  
24 such injury, inflicted upon such child, or (3) is placed at imminent risk  
25 of serious harm, shall report or cause a report to be made in  
26 accordance with the provisions of sections 17a-101b to 17a-101d,  
27 inclusive, as amended by this act.

28 (b) Any director, officer or employee of a nonprofit corporation, as  
29 described in section 33-1002, that is incorporated or operates in this  
30 state, who has reasonable cause to suspect or believe that any child  
31 under the age of eighteen years (1) has been abused or neglected, as  
32 defined in section 46b-120, (2) has had nonaccidental physical injury,  
33 or injury which is at variance with the history given of such injury,  
34 inflicted upon such child, or (3) is placed at imminent risk of serious  
35 harm, by a person acting on behalf of the nonprofit corporation, shall  
36 report or cause a report to be made in accordance with the provisions  
37 of sections 17a-101b to 17a-101d, inclusive, as amended by this act.

38 [(b)] (c) Any person required to report under the provisions of this  
39 section who fails to make such report or fails to make such report  
40 within the time period prescribed in sections 17a-101b to 17a-101d,  
41 inclusive, as amended by this act, and section 17a-103 shall be guilty of  
42 a class A misdemeanor and shall be required to participate in an  
43 educational and training program. The program may be provided by  
44 one or more private organizations approved by the commissioner,  
45 provided the entire cost of the program shall be paid from fees charged  
46 to the participants, the amount of which shall be subject to the

47 approval of the commissioner.

48 [(c)] (d) The Commissioner of Children and Families, or the  
49 commissioner's designee, shall promptly notify the Chief State's  
50 Attorney when there is reason to believe that any such person has  
51 failed to make a report in accordance with this section.

52 Sec. 3. Section 17a-101b of the general statutes is repealed and the  
53 following is substituted in lieu thereof (*Effective October 1, 2014*):

54 (a) An oral report shall be made by a mandated reporter or any  
55 person described in subsection (b) of section 17a-101a, as amended by  
56 this act, as soon as practicable but not later than twelve hours after  
57 [the] a mandated reporter or such person has reasonable cause to  
58 suspect or believe that a child has been abused or neglected or placed  
59 in imminent risk of serious harm, by telephone or in person to the  
60 Commissioner of Children and Families or a law enforcement agency.  
61 If a law enforcement agency receives an oral report, it shall  
62 immediately notify the Commissioner of Children and Families.

63 (b) If the commissioner or the commissioner's designee suspects or  
64 knows that a mandated reporter or such person has knowingly made a  
65 false report, the identity of the mandated reporter or such person shall  
66 be disclosed to the appropriate law enforcement agency and to the  
67 perpetrator of the alleged abuse.

68 (c) If the Commissioner of Children and Families, or the  
69 commissioner's designee, receives a report alleging sexual abuse or  
70 serious physical abuse, including, but not limited to, a report that: (1)  
71 A child has died; (2) a child has been sexually assaulted; (3) a child has  
72 suffered brain damage or loss or serious impairment of a bodily  
73 function or organ; (4) a child has been sexually exploited; or (5) a child  
74 has suffered serious nonaccidental physical injury, the commissioner  
75 shall, within twelve hours of receipt of such report, notify the  
76 appropriate law enforcement agency.

77 (d) Whenever a mandated reporter, as defined in section 17a-101, as

78 amended by this act, or a person described in subsection (b) of section  
79 17a-101a, as amended by this act, has reasonable cause to suspect or  
80 believe that any child has been abused or neglected by a member of the  
81 staff of a public or private institution or facility that provides care for  
82 such child or a public or private school, the mandated reporter or such  
83 person shall report as required in subsection (a) of this section. The  
84 Commissioner of Children and Families or the commissioner's  
85 designee shall notify the principal, headmaster, executive director or  
86 other person in charge of such institution, facility or school, or the  
87 person's designee, unless such person is the alleged perpetrator of the  
88 abuse or neglect of such child. In the case of a public school, the  
89 commissioner shall also notify the person's employing superintendent.  
90 [Such] The person in charge, or such person's designee, shall then  
91 immediately notify the child's parent or other person responsible for  
92 the child's care that a report has been made.

93 Sec. 4. Section 17a-101c of the general statutes is repealed and the  
94 following is substituted in lieu thereof (*Effective October 1, 2014*):

95 Not later than forty-eight hours after making an oral report, a  
96 mandated reporter or a person described in subsection (b) of section  
97 17a-101a, as amended by this act, shall submit a written report to the  
98 Commissioner of Children and Families or the commissioner's  
99 designee. When a mandated reporter or a person described in  
100 subsection (b) of section 17a-101a, as amended by this act, is a member  
101 of the staff of a public or private institution or facility that provides  
102 care for such child or public or private school the mandated reporter or  
103 such person shall also submit a copy of the written report to the person  
104 in charge of such institution, school or facility or the person's designee.  
105 In the case of a report concerning a school employee holding a  
106 certificate, authorization or permit issued by the State Board of  
107 Education under the provisions of sections 10-144o to 10-146b,  
108 inclusive, and 10-149, a copy of the written report shall also be sent by  
109 the Commissioner of Children and Families or the commissioner's  
110 designee to the Commissioner of Education or the commissioner's  
111 designee. In the case of an employee of a facility or institution that

112 provides care for a child which is licensed by the state, a copy of the  
113 written report shall also be sent by the Commissioner of Children and  
114 Families to the executive head of the state licensing agency.

115 Sec. 5. Section 17a-101o of the general statutes is repealed and the  
116 following is substituted in lieu thereof (*Effective October 1, 2014*):

117 (a) If the Commissioner of Children and Families suspects or knows  
118 that a mandated reporter, as defined in section 17a-101, as amended by  
119 this act, employed by a local or regional board of education, or a  
120 person described in subsection (b) of section 17a-101a, as amended by  
121 this act, has failed to make a report that a child has been abused or  
122 neglected or placed in immediate risk of serious harm within the time  
123 period prescribed in sections 17a-101a to 17a-101d, inclusive, as  
124 amended by this act, and section 17a-103, the commissioner shall make  
125 a record of such delay and develop and maintain a database of such  
126 records. The commissioner shall investigate such delayed reporting.  
127 Such investigation shall be conducted in accordance with the policy  
128 developed in subsection (b) of this section, and include the actions  
129 taken by the (1) employing local or regional board of education or  
130 superintendent of schools for the district in response to such  
131 employee's failure to report, or (2) nonprofit corporation in response to  
132 a failure to report by a person described in subsection (b) of section  
133 17a-101a, as amended by this act.

134 (b) The Department of Children and Families shall develop a policy  
135 for the investigation of delayed reports by mandated reporters or  
136 persons described in subsection (b) of section 17a-101a, as amended by  
137 this act. Such policy shall include, but not be limited to, when referrals  
138 to the appropriate law enforcement agency for delayed reporting are  
139 required and when the department shall require mandated reporters  
140 and such persons who have been found to have delayed making a  
141 report to participate in the educational and training program pursuant  
142 to subsection [(b)] (c) of section 17a-101a, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	17a-101(c)
Sec. 2	October 1, 2014	17a-101a
Sec. 3	October 1, 2014	17a-101b
Sec. 4	October 1, 2014	17a-101c
Sec. 5	October 1, 2014	17a-101o

**Statement of Legislative Commissioners:**

In section 1, "may be provided" was changed to "may be made available" for consistency with the wording used in the prior sentence. In section 5(b), in the first sentence, "17a-101" was changed to "17a-101a" for accuracy and in the second sentence, the phrase "and such persons" was added after "mandated reporters" for consistency with the first sentence.

**JUD**      *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 15 \$</b>	<b>FY 16 \$</b>
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal
Children & Families, Dept.	GF - Potential Cost	less than 70,000	less than 70,000

**Municipal Impact:** None

### **Explanation**

The bill may result in a cost of less than \$70,000 annually to the Department of Children and Families (DCF) to the extent that the agency chooses (1) to make mandated reporter trainings available to nonprofit directors, officers and employees and (2) to increase the number of such trainings to accommodate these individuals. The bill also results in a potential minimal revenue gain to the General Fund by making the failure of these individuals to report child abuse or neglect a class A misdemeanor.

DCF trains approximately 40,000 non-DCF-employees each fiscal year. The FY 14 estimated cost for all non-DCF-employee trainings is \$15,000. There were 156,880 nonprofit employees in Connecticut in 2000.<sup>1</sup> As such, it is estimated that the potential cost to DCF to train nonprofit directors, officers and employees is less than \$70,000 annually.

The General Fund revenue gain is dependent upon the number of

<sup>1</sup>Connecticut Nonprofit Employment by Sarah Dewees and Lester M. Salamon (Baltimore: Johns Hopkins Center for Civil Society Studies, February 2002)

nonprofit directors, officers and employees that fail to report child abuse or neglect that are fined for a class A misdemeanor. It is anticipated that few nonprofit directors, officers and employees will be fined as no individuals have been convicted of this offense to date.

### ***The Out Years***

The DCF fiscal impact identified above would continue into the future subject to the extent to which DCF chooses (1) to provide mandated reporter trainings to nonprofit directors, officers and employees and (2) to increase the number of such trainings. The General Fund revenue gain identified above would continue into the future subject to whether nonprofit directors, officers and employees are fined under the class A misdemeanor expansion under the bill.

Sources: [http://ccss.jhu.edu/wp-content/uploads/downloads/2011/09/NED\\_Bulletin8\\_CT\\_2002.pdf](http://ccss.jhu.edu/wp-content/uploads/downloads/2011/09/NED_Bulletin8_CT_2002.pdf)

**OLR Bill Analysis****sSB 492*****AN ACT CONCERNING THE REPORTING OF SUSPECTED CHILD ABUSE BY PERSONS WHO ARE DIRECTORS, OFFICERS OR EMPLOYEES OF NONPROFIT CORPORATIONS.*****SUMMARY:**

This bill requires directors, officers, and employees of nonprofit corporations incorporated or operating in Connecticut to file a report with the Department of Children and Families (DCF) if they have reasonable cause to suspect or believe a child under age 18 (1) has been abused or neglected; (2) has had a nonaccidental injury, or injury that differs from its given history, inflicted upon him or her; or (3) is placed at imminent risk of serious harm by a person acting on the corporation's behalf. It subjects them to the same standards, protections, and penalties for failure to report as apply to mandated reporters (see BACKGROUND) under existing law without designating them as mandated reporters.

It allows DCF to make available to these directors, officers, and employees educational and refresher training programs for accurate and prompt child abuse and neglect identification and reporting. By law, DCF must provide the programs to new school employees and make them available to all mandated reporters.

Finally, it specifies actions DCF must take if a nonprofit corporation director, officer, or employee does not make a required report within the prescribed time period.

EFFECTIVE DATE: October 1, 1014

**PROTECTION AGAINST RETALIATION**

The bill extends the existing law's protections against employer

retaliation to nonprofit corporation directors, officers, and employees required to report suspected child abuse or neglect by a person acting on the corporation's behalf.

The law prohibits an employer from (1) firing, discriminating, or retaliating against any employee who reports child abuse or neglect as required by law or (2) hindering, preventing, or attempting to hinder or prevent an employee's efforts to make such a report. The attorney general may sue and a court may impose a civil penalty of up to \$2,500 or other equitable relief (CGS § 17a-101e(a).)

The state's whistleblower law also prohibits employers from discharging, disciplining, or otherwise penalizing employees who reports suspected child abuse or neglect as required by law. An employee so penalized may sue for job reinstatement, back pay, and reestablishment of employee benefits after exhausting administrative remedies (CGS § 31-51m(b)).

### **MANDATED REPORTER PENALTIES**

The bill also subjects the nonprofit directors, officers, and employees to the same penalties that mandated reporters face for failing to report child abuse or neglect or knowingly filing a false report.

By law, anyone required to report suspected child abuse or neglect must (1) report orally to DCF within 12 hours of having reasonable cause to suspect or believe that a child has been abused, neglected, or placed in imminent risk of serious harm and (2) report in writing within 48 hours after making an oral report. A person subject to these requirements who fails to meet them (1) commits a class A misdemeanor, punishable by up to one year in prison, up to a \$2,000 fine, or both and (2) must participate in an educational and training program (CGS § 17a-101a(d)).

Also by law, anyone required to report suspected child abuse or neglect who knowingly files a false report may be imprisoned for up to one year, fined up to \$2,000, or both (CGS § 17a-101e(d)).

**DCF REQUIREMENTS**

As is currently the case with mandated reporters, if the DCF commissioner suspects or knows that a nonprofit corporation director, operator, or employee has failed to make a required report within the prescribed time period, she must (1) record the delay, (2) develop and maintain a database of these records, and (3) investigate the delay. The investigation must include how the corporation responded to the employee's, director's, or officer's failure to report. The bill also requires DCF to develop a policy for investigating such delayed reports. The law already requires (1) the DCF commissioner to take similar actions if she suspects or knows that a mandated reporter who works for a school failed to report within the requisite time period and (2) DCF to develop a policy for investigating delayed reports by mandated reporters.

**BACKGROUND*****Mandated Reporters***

Mandated reporters are:

1. licensed physicians or surgeons, resident physicians or interns working in Connecticut hospitals, registered or licensed practical nurses, and mental health professionals or physician assistants;
2. medical examiners;
3. dentists and dental hygienists;
4. psychologists;
5. school employees;
6. social workers;
7. police officers;
8. juvenile and adult probation and parole officers;

9. clergy members;
10. pharmacists;
11. physical therapists;
12. optometrists, chiropractors, and podiatrists;
13. licensed or certified emergency medical services providers;
14. licensed or certified alcohol and drug counselors, licensed marital or family therapists, licensed professional counselors, and sexual assault and domestic violence counselors;
15. licensed foster parents;
16. people paid to care for children in a public or private facility, child day care center, group day care center, group day care home, or family day care home licensed by the state;
17. DCF employees;
18. Department of Public Health employees responsible for licensing child day care centers, group day care homes, family day care homes, or youth camps;
19. the child advocate and her employees; and
20. Judicial Branch employees working as family relations counselors, counselor trainees, and family services supervisors (CGS § 17a-101).

***Related Bill***

sHB 5040, reported favorably by the Children's, Education, and Judiciary committees, expands the mandated reporter list to include any paid youth camp director or assistant director and anyone age 18 or older who is a paid (1) youth athletics coach or director; (2) private youth sports organization, league, or team coach or director; or (3) administrator, faculty, or staff member, athletic coach, director, or

trainer employed by a public or private higher education institution, excluding student employees. The bill also exempts certain social workers from mandated reporter responsibilities in certain circumstances.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 33      Nay 7      (04/02/2014)